

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**J.W., A MINOR, BY AND THROUGH AMANDA WILLIAMS,  
GUARDIAN AND NEXT FRIEND**

**PLAINTIFF**

**VS**

**CASE NUMBER 3:21-cv-00663-CWR-LGI**

**THE CITY OF JACKSON, ET AL.**

**DEFENDANTS**

**MAYOR CHOKWE A. LUMUMBA AND ROBERT MILLER’S  
MOTION FOR QUALIFIED IMMUNITY AND TO DISMISS**

Mayor Lumumba and Miller, through counsel and pursuant to Federal Rule of Civil Procedure 12(c), file this Motion for Qualified Immunity and to Dismiss, seeking dismissal of Counts I, II and III of Plaintiff’s Amended Complaint [Doc. 51]. In support of the requested relief, Mayor Lumumba and Miller state:

1. In the Amended Complaint, Plaintiff asserts three claims for relief against Mayor Lumumba and Miller: (1) Count I: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – Bodily Integrity; (2) Count II: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – State Created Danger; and (3) Count III: Negligence. *See* Am. Compl. [Doc. 51] at 77-86.

2. Each Count fails to state a claim upon which relief may be granted against Mayor Lumumba and Miller.

3. Mayor Lumumba and Miller are entitled to the protection afforded by the qualified-immunity defense.

4. Plaintiff has not alleged a state actor’s direct, intentional physical contact with Plaintiff; and, therefore, no violation of bodily-integrity.

5. The Fifth Circuit does not recognize a state-created-danger theory of liability.

6. Plaintiff filed the negligence claim (Count III) without giving Mayor Lumumba and Miller the notice required by the Mississippi Tort Claims Act. That claim also fails to state a basis for Mayor Lumumba or Miller's individual liability for Plaintiff's alleged injuries.

7. Accordingly, and for the reasons more fully set forth in their accompanying Memorandum in Support, Mayor Lumumba and Miller request dismissal of Counts I, II and III against them.

RESPECTFULLY SUBMITTED, this the 12<sup>th</sup> day of May, 2022.

By: /s/ John F. Hawkins

JOHN F. HAWKINS

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2022, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which served a copy of the foregoing on all counsel of record.

/s/ John F. Hawkins

JOHN F. HAWKINS